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27 **UNITED STATES DISTRICT COURT**
28 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

29 DAVID LOWERY, individually and
30 on behalf of himself and all others
31 similarly situated,

32 Case No.: 2:15-cv-09929-BRO (RAOx)

33 **STIPULATION TO EXTEND TIME
34 TO RESPOND TO INITIAL
35 COMPLAINT BY NOT MORE
36 THAN 30 DAYS (L.R. 8-3), AND TO
37 EXTEND PLAINTIFFS' DEADLINE
38 TO FILE A MOTION FOR CLASS
39 CERTIFICATION (L.R. 23-3)**

40 Plaintiffs,
41 v.
42 SPOTIFY USA, INC., a Delaware
43 corporation,

44 The Hon. Beverly Reid O'Connell

45 Defendant.

46 [Filed concurrently with Proposed
47 Order and Declaration of Mona Z. Hanna]

1 Current Response Date to Complaint:
2 Jan. 19, 2016
3 Proposed New Response Date to Complaint:
4 Feb. 12, 2016
5 Proposed New Motion Date:
6 May 27, 2016

7 Complaint Filed: Dec. 28, 2015
8 Discovery Cut-Off: Not Set
9 Motion Cut-Off: Not Set
10 Pre-Trial Conference: Not Set
11 Trial Date: Not Set

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1 **STIPULATION**
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3 Plaintiff David Lowery (“Plaintiff”), individually and on behalf of all those
4 similarly situated and Spotify USA Inc. (“Defendant”), through their respective
5 attorneys of record herein enter into this Stipulation with reference to the following
6 circumstances:

7 WHEREAS, on December 28, 2015, Plaintiffs filed the Class Action
8 Complaint (“Complaint”) in the above-captioned action in the United States
9 District Court for the Central District of California¹;

10 WHEREAS, on December 29, 2015, Defendant’s Registered Agents for
11 Service of Process were served with the Complaint, which seeks damages of at
12 least \$150 million;

13 WHEREAS, Defendant’s deadline to answer or otherwise respond to the
14 initial Complaint is January 19, 2016;

15 WHEREAS, on January 8, 2016, Defendant’s counsel contacted Plaintiffs’
16 counsel to request an extension of time, pursuant to Local Rule 8-3, for Defendant
17 to answer or otherwise respond to the Complaint for twenty-four (24) days from
18 January 19, 2016 to February 12, 2016;

19 WHEREAS, Defendant’s counsel advised Plaintiffs’ counsel that Defendant
20 requested an extension in order to provide: (1) the parties sufficient time to engage
21 in substantive meet and confer discussions regarding the allegations in the
22 Complaint, and thereby fully comply with Local Rule 7-3 and this Court’s
23 Standing Order and attempt to avoid unnecessary motion practice; (2) Defendant a
24 reasonable and sufficient amount of time to evaluate the claims made in the
25 Complaint; (3) retain out-side counsel, and (4) the Defendant sufficient time to
26 prepare a responsive pleading after the meet and confer process has been
27 completed;

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¹ For the sake of clarity, no class has been certified in this case, as of this date.

1 WHEREAS, Local Rule 8-3 provides that where a stipulation “does not
2 extend the time [to respond to the initial Complaint] for more than a cumulative
3 total of thirty (30) days from the date the response initially would have been due,
4 the stipulation need not be approved by the judge”;

5 WHEREAS, the parties agreed to meet and confer in good faith regarding
6 the claims alleged in the Complaint;

7 WHEREAS, pursuant to Central District of California Local Rule 23-3,
8 Plaintiffs’ deadline to file a Motion for Class Certification is March 25, 2016;

9 WHEREAS, without a concurrent extension of the deadline for Plaintiffs to
10 file a Motion for Class Certification, Plaintiffs would be forced to complete class
11 discovery and file a Motion for Class Certification only 45 days after Defendant
12 files its first responsive pleading;

13 WHEREAS, Plaintiffs’ and Defendant’s counsel agreed to stipulate to (1)
14 extend the date for Defendant to answer or otherwise respond to the initial
15 Complaint to February 12, 2016, and (2) extend the date for Plaintiffs to file a
16 Motion for Class Certification by sixty (60) days to May 27, 2016;

17 WHEREAS the parties agree that these extensions are in the interests of
18 judicial economy and the preservation of fees and costs, and to allow time for the
19 parties to conduct a preliminary investigation into Plaintiffs’ claims, and determine
20 whether the matter can be resolved, and whether Plaintiffs’ claims have been
21 adequately alleged or whether amendment of the initial Complaint is appropriate;

22 WHEREAS, the parties have not obtained any prior extension of the date to
23 answer or otherwise respond to the Complaint, nor of the date to file a Motion for
24 Class Certification;

25 WHEREAS, entering into this stipulation and extending the deadlines will
26 not prejudice any parties to this action, and specifically, Defendant is not waiving
27 any argument to assert that there is no personal jurisdiction over it, nor is Plaintiffs
28 agreeing or conceding any such argument; and

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs and Defendant, that the deadline for Defendant to answer or otherwise respond to the Complaint shall be extended to February 12, 2016, and Plaintiffs' deadline to file a Motion for Class Certification shall be extended to May 27, 2016.

Dated: January 13, 2016

MICHELMAN & ROBINSON, LLP

By: /s/ Mona Z. Hanna
Sanford L. Michelman
Mona Z. Hanna
David C. Lee
Ilse C. Scott
Melanie Natasha Howard
*Attorneys for Plaintiff and Proposed
Class*

Dated: January 13, 2016

MAYER BROWN LLP

By: /s/ John Nadolenco
John Nadolenco, Esq.
Attorneys for Defendant Spotify
USA Inc.

ATTESTATION

Pursuant to Civil Local Rule 5-4.3.4(a)(2)(i), I, Mona Z. Hanna, attest under penalty of perjury that I have obtained concurrence and authorization from John Nadolenco, counsel for Spotify USA Inc. to affix his electronic signature to this filing.

Dated: January 13, 2016

By: /s/ Mona Z. Hanna